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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,374	04/12/2000	HANS-BERTH KLERSY	3933.002	6961

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/529,374

Applicant(s)  
HANS-BERTH KLERSY

Examiner  
YVONNE M. HORTON

Art Unit  
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 12, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-14 and 16-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

**Notice of References Cited**

Application/Control No.

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Applicant(s)/Patent Under Reexam

HANS-BERTH KLERSY

Examiner

YVONNE M. HORTON

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**U.S. PATENT DOCUMENTS**

	Document Number Country Code-Number-Kind Code	Date MM-YYYY <sup>1</sup>	Name	Classification <sup>2</sup>	
A	3,759,006	9/1973	TAMBOISE	52	406
B	4,065,905	1/1978	Van Der LELY	52	741
C	4,074,487	2/1978	DANIELS ET AL.	52	236.3
D	4,335,557	6/1982	MORTON	52	741
E	4,346,540	8/1982	ANDERSON	52	274
F	4,894,967	1/1990	MORTON	52	334
G	5,509,242	4/1996	RECHSTEINER ET AL.	52	270
H	6,298,619	10/2001	DAVIE	52	293.3
I					
J					
K					
L					
M					

**FOREIGN PATENT DOCUMENTS**

	Document Number Country Code-Number-Kind Code	Date MM-YYYY <sup>1</sup>	Country	Name	Classification <sup>2</sup>	
N						
O						
P						
Q						
R						
S						
T						

**NON-PATENT DOCUMENTS**

	Include, as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages
U	
V	
W	
X	

<sup>1</sup> A copy of this reference is not being furnished with this Office action. See MPEP § 707.05(a).<sup>1</sup> Dates in MM-YYYY format are publication dates.<sup>2</sup> Classifications may be U.S. or foreign.

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" has been used to designate both a "Z-shaped section" and a "ceiling frame". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "2" and "6" have both been used to designate a "ceiling frame". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for a "transverse bearer" in the claims.

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***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-14, 16-19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The claims are directed to prefabricated building made by a modular steel frame construction method; however, there are no method steps present in the claim language. Therefore, until further clarification, the claims have been examined as an apparatus claim.

7. Claim 3 recites the limitation "the incurved part" in line 4. There is insufficient antecedent basis for this limitation in the claim.

8. In claim 4, it is not clear what the term "it" is referring (i.e. the flanges or the floor layer). Clarification is required.

9. Claim 7 recites the limitation "the pair" in line 3. There is insufficient antecedent basis for this limitation in the claim.

10. In claim 8, it is not clear what the "two modules" are referring to. (i.e. does the applicant mean the two pillars?). Clarification is required.

11. In claim 13, it is not clear what "its" is referring to. (i.e. The longitudinal direction or the ceiling frame, what?). Clarification is requested.

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12. In regards to claim 14, it is not clear what is meant by the term “generates a twinned beam” Clarification is required.

13. Claim 16 recites the limitation "the cantilever span" in line 5. There is insufficient antecedent basis for this limitation in the claim.

14. In claim 17, it is not clear what is meant by the phrase “the transverse bearer is practicable”. Clarification is required.

15. Claim 17 recites the limitation "the roof" in line 3. There is insufficient antecedent basis for this limitation in the claim.

16. In claim 18, it is not clear where or how the modules are “rabbeted” with respect to the building. Clarification is required.

17. Regarding claim 19, the phrase "can be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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19. Claims 6,8,9-11,16,17,19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,346,540 to ANDERSON. In reference to claim 20, ANDERSON discloses a prefabricated building (1) including a ceiling and a floor frame (4) wherein the floor frame (4) includes Z-shaped sections (5) welded therein and forming flanges. The building of ANDERSON of also includes at least one pair of pillars having a first section (6) and a second section ( 7) connected by a transverse bearer (21, 25) and pins (18, 20). Regarding claim 6, the sections (6,7) are connected to the floor frame (4) by gussets (36). In reference to claim 8, ANDERSON does not specifically state the use of St 37. He does; however, teach the use of steel and aluminum - "another conceivable material". In reference to claim 9, the combination of the sections (6,7) with the pins (18, 20) provides accurate vertical and horizontal structure by means of a simple plug in connection, for instance, pins (18) plugged in to plate (25). Regarding claims 10 and 11, ANDERSON does not teach the use of L-shaped St 37, St 52 or 250/75/5 steel sections. He does however teach the use of Z-shaped steel or aluminum sections - "other conceivable materials and sections". In reference to claim 16, the building of ANDERSON further includes a pair of beams (44,47) interconnected by screw-bolts. In reference to claim 17, as best understood, the combination of the roof frame (4) and floor frame (4) is practicable, especially for the purpose of providing a building structure. Regarding claim 19, the building of ANDERSON includes several stories, column 7, line 46.

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***Claim Rejections - 35 USC § 103***

20. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

21. Claims 2,3,5,7,12,13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,346,540 to ANDERSON. As detailed in paragraph #19 above, ANDERSON discloses the basic claimed building except for the material of the building members. Regarding claim 2, ANDERSON discloses forming his frame members from steel or aluminum. However ANDERSON does not specifically state the use of "standardized C 160, St 37 or St 52 " steel. Even so, if C 160, St 37 or St 52 is "standard", then it would have been obvious to one having ordinary skill in the art to select this particular steel to form the floor frame. In regard to welding, ANDERSON column 2, line 13 discloses "screws or similar". Welding is an art recognized equivalent to screwing. Therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. Further, beveling is old and very well known in the art. Although ANDERSON does not specifically detail beveling, beveling would also have been obvious to one having ordinary skill in the art at the time the invention was made. Regarding claim 3, again ANDERSON does not specifically detail welding, but the flange 40 is connected to the inside of the floor frame (4). Again, therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. In reference to claim 5,



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ANDERSON does not sepcifically state the use of "MSH sections 60/60/5, 80/80/10, St 37 or St 52 " steel. It would have been obvious to one having ordinary skill in the art to select a known material on the basis of it suitability for the use intended as an obvious matter of design choice. For instance a stronger steel would be employed for parking garages. Whereas as steel having less strength would be employed for a conventional home. In further regards to claim 5 and regarding claim 7, the selection of the material used to form the building and the selection of the number of pillars and the static requirements are also governed by how the structure is intended to be employed. In reference to claim 12, welding and beveling is old and very well known in the art. ANDERSON column 2, line 13 discloses "screws or similar". Welding is an art recognized equivalent to screwing. Therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. Although ANDERSON does not specifically detail beveling, beveling would also have been obvious to one having ordinary skill in the art at the time the invention was made. Regarding 13, ANDERSON does not teach the use C 60 or C 80 sections. ANDERSON does; however, teach the use of "other sections" (5) connected perpendicularly to the ceiling frame (4). ANDERSON column 2, line 13 discloses "screws or similar". Welding is an art recognized equivalent to screwing. Therefore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to weld the structure of ANDERSON. In reference to claim 14, as best understood, the ceiling frame (4) and the floor frame (4) are spaced a predetermined distance to create a twinned beam span. Although the distance of the span is not

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specified, the selection of this distance would have been an obvious matter of design choice, to one having ordinary skill in the art at the time the invention was made, depending upon the intended use of the structure. For instance, in order to accommodate large vehicles, a garage might have a greater span between ceilings and floors than a conventional home.

***Response to Arguments***

22. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

  
Yvonne M. Horton

Primary Examiner

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July 10, 2002